

LAMONICA HERBST & MANISCALCO, LLP

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July 8, 2024

VIA ECF

Honorable Arun Subramanian
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 15A
New York, NY 10007

**Re: Deutsche Bank Trust Company Americas v. Nelson *et al.*,
Case No. 1:24-cv-02425 (AS)
*Letter Motion for Continuance of Initial Pretrial Conference***

Dear Judge Subramanian:

This firm is counsel to defendant Brian Nelson in the above-referenced action.

We respectfully submit this letter-motion pursuant to the Court's Individual Practices and the Court's Order dated April 1, 2024 to request an adjournment of the Initial Pretrial Conference presently scheduled for July 10, 2024 at 11:00 a.m., to August 28, 2024 or thereafter. There is good cause for the extension as described below.

Original Date for Initial Pretrial Conference: July 10, 2024

Previous requests for adjournment: None

Consent of Plaintiff and Defendant Who Have Appeared: Yes

Date of Parties' Next Scheduled Appearance: None

Proposed Reschedule Date for Continuance: On or about August 28, 2024

Good Cause for Adjournment:

The adjournment is requested because, despite the diligent efforts of current counsel, multiple parties have not yet appeared in the case, and therefore would not be present on July 10. Specifically, Defendant Patrick Nelson and Plaintiff have reached a stipulation to set aside Patrick Nelson's default, and his response to the complaint will be filed shortly, by July 12, but after the current hearing date. In addition, the four third-party defendants were recently served with the Summons on Third Party Complaint. Service was accomplished by "Waiver of the Service of Summons," and that form provides that their responses to the Third-Party Complaint are due within 60 days, i.e., by August 23, 2024. (These Waivers of the Service of Summons have been or will be filed shortly.) Finally, Brian Nelson (who is from out of state) anticipates submitting a *pro hac vice* application for his lead counsel to appear in this matter.

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To facilitate full participation at the Initial Pretrial Conference, we therefore request that the Court adjourn the Initial Prehearing Conference until on or about August 28, 2024 (which is approximately 7 weeks after the initial date) or such other date as the Court may deem reasonable (other than August 13 or August 23, which are not available to counsel).

This request has been submitted to counsel for Plaintiff, counsel for Patrick Nelson, and counsel for the four named Third-Party Defendants who accepted service on their behalf (David Koch). As noted above, Counsel for Plaintiff, Defendant Brian Nelson, and Defendant Patrick Nelson have approved this adjournment. Mr. Koch (for Third-Party Defendants, who have not appeared) has been out of town, and we have not received any communication from him concerning the continuance, so we do not know his position. His clients would not be participating at the Initial Pretrial Conference on July 10 in any event, so the proposed adjournment does not seem unduly prejudicial to their interests.

This request is submitted approximately 48-hours before the scheduled hearing date. We apologize for the timing of the request. The undersigned counsel was out of town for the 4th of July holiday and there was an inadvertent mix-up between counsel concerning notice of the initial Pre-Hearing Conference date.

Respectfully,



Lon J. Seidman

LJS:rrl

cc: Gary F. Eisenberg, *Perkins Coie, Counsel for Plaintiff*
Todd Wengrovsky, *Counsel for Defendant Patrick Nelson*
David R. Koch, *King Scow Koch Durham LLC, Counsel for Third-Party Defendants*

Application granted. The initial pretrial conference currently set for July 10th is hereby adjourned to August 28, 2024, at 11:00 AM.

The Clerk of Court is directed to terminate the motion at Dkt. 29.

SO ORDERED.



Arun Subramanian, U.S.D.J.
Date: July 8, 2024